

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

## PALOMA AGRUIRRE,

**Defendant.**

**CASE NO. 8:14CR284**

# MEMORANDUM AND ORDER

This matter is before the Court on Filing No. 46, the Defendant's "Motion Pursuant to 28 U.S.C. 2255(f)(3) in Light of the Retroactive Effect of Johnson v. United States, 576, U.S. S.Ct 2015 and its Progeny, Welch v United States, U.S., S.Ct 2016," (§ 2255 Motion"). The Defendant appears to seek a reduction in her sentence based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). The Court has reviewed the filings in this case and notes that the Defendant was sentenced for a controlled substance offense. A mandatory minimum sentence was imposed. Also before the Court is a Motion to Withdraw (Filing No. 49) filed by the Federal Public Defender. In the motion filed by the Federal Public Defender, he states that this matter has been reviewed, the Defendant received the statutory mandatory minimum sentence and that the *Johnson* decision is not applicable to this case. The Court agrees.

Accordingly,

IT IS ORDERED:

1. The Defendant's Motion Pursuant to 28 U.S.C. 2255(f)(3) in Light of the Retroactive Effect of Johnson v. United States, 576, U.S. S.CT 2015 and its Progeny, Welch v Untied States, U.S., S.CT 2016 (Filing No. 46) is denied;
2. A separate Judgment will be issued;

3. The Motion to Withdraw (Filing No. 49) filed by the Federal Public Defender is granted; and

4. The Clerk of Court is ordered to mail a copy of this order to the Defendant at her last known address.

DATED this 23<sup>rd</sup> day of August, 2016.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge